

1972

## c 133 The Registry Amendment Act, 1972

Ontario

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## CHAPTER 133

**An Act to amend The Registry Act**

*Assented to November 30th, 1972  
Session Prorogued December 15th, 1972*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 1 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 1, section 54, is further amended by adding thereto the following clause:

(la) "registrar" means a land registrar appointed under section 8 for a registry division.

**2.** Subsection 2 of section 4 of the said Act is amended by striking out "county or district described in section 1 of *The Territorial Division Act*" in the twelfth, thirteenth and fourteenth lines and inserting in lieu thereof "county, regional municipality and provisional judicial district",

**3.** Section 5 of the said Act is repealed and the following substituted therefor:

5.—(1) Subject to subsection 2, the registry office for each registry division shall be located within the registry division.

(2) Notwithstanding subsection 1, the registry offices for the registry divisions of Carleton, Middlesex East, and Toronto Boroughs and York South may continue to be located in Ottawa, London and Toronto, respectively.

**4.** Section 7 of the said Act is amended by adding thereto the following subsection:

(2) In addition to the Assistant Director of Land Registration appointed under subsection 1, the director of titles appointed under *The Land Titles Act* is, *ex officio*, an Assistant Director of Land Registration

s.1,  
amended

s.4(2),  
amended

s.5,  
re-enacted

Location  
of registry  
office

Idem

s.7,  
amended

Director  
of Titles

R.S.O. 1970,  
c. 234

for the purposes of exercising the powers and performing the duties of an Assistant Director of Land Registration under this Act.

s. 8,  
amended

**5.**—(1) Section 8 of the said Act is amended by inserting after “a” in the first line “land”.

Continuation  
of appoint-  
ments

(2) Every registrar holding office immediately before this section comes into force shall be deemed to be a land registrar appointed under section 8 of *The Registry Act*, as amended by subsection 1.

s. 10 (4),  
repealed

**6.** Subsection 4 of section 10 of the said Act is repealed.

s. 13a,  
enacted

**7.** The said Act is amended by adding thereto the following section:

Land  
registry  
offices

**13a.**—(1) Every registry office, including every combined registry and land titles office, shall be known as a land registry office.

Registry  
systems

(2) The system of registration under this Act shall be known as the registry system.

s. 14 (1),  
re-enacted

**8.** Subsection 1 of section 14 of the said Act is repealed and the following substituted therefor:

Holiday  
defined

(1) In this section, “holiday” means,

(a) Saturday;

(b) Sunday;

(c) a day that is a holiday for civil servants as prescribed by the regulations under *The Public Service Act*.

R.S.O. 1970,  
c. 386

s. 18 (6),  
pars. 6, 18,  
repealed

**9.** Paragraphs 6 and 18 of subsection 6 of section 18 of the said Act are repealed.

s. 19 (6),  
re-enacted

**10.** Subsection 6 of section 19 of the said Act is repealed and the following substituted therefor:

Instruments  
to be  
included in  
copy of  
abstract  
index

(6) Where an abstract index is copied, every instrument, except an instrument to which section 65 applies, shall be copied, and the registrar shall carefully preserve the original abstract index and produce it upon demand.

s. 21,  
repealed

**11.** Section 21 of the said Act is repealed.

**12.** Section 22 of the said Act is amended by adding <sup>s. 22, amended</sup> thereto the following subsections:

- (8) Notwithstanding subsections 2 and 6, a notice of, <sup>Agreements and options</sup>
- (a) an agreement of purchase and sale of land or an assignment thereof; or
  - (b) an option for the purchase of land or an assignment thereof,

may be registered if it complies with the regulations.

- (9) Subject to subsection 10, the registration of a notice <sup>Expiry</sup> under subsection 8 expires one year after the date of its registration.

- (10) The period of registration of a notice under subsection <sup>Renewal</sup> 8 may be extended from time to time by registering a renewal notice in the prescribed form and, unless the period is further extended, the registration of the renewal notice expires one year after the date of its registration.

- (11) A notice registered under subsection 8 or 10 shall be <sup>Affidavit of bona fides</sup> accompanied by an affidavit of *bona fides* in the prescribed form.

**13.** Clause *c* of section 34 of the said Act is repealed and <sup>s. 34 (c), re-enacted</sup> the following substituted therefor:

- (c) a copy of an instrument registered under *The Corporation Securities Registration Act*, certified under that Act; or <sup>R.S.O. 1970, c. 88</sup>
- (d) a copy of an instrument certified by the registrar or by a branch registrar under *The Personal Property Security Act*. <sup>R.S.O. 1970, c. 344</sup>

**14.** Section 39 of the said Act is repealed and the following <sup>s. 39, re-enacted</sup> substituted therefor:

39. A judgment in foreclosure or a final order of fore- <sup>Registration of fore-closure orders, etc.</sup> closure or an instrument purporting to be a conveyance of land under a power of sale contained in a mortgage shall not be registered until the mortgage and any assignment thereof have been registered.

**15.** Section 41 of the said Act is repealed.

<sup>s. 41, repealed</sup>



s. 42 (1),  
amended

**16.**—(1) Subsection 1 of section 42 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4, is further amended by inserting after "person" in the seventh line "other than a corporation".

s. 42 (10) (b),  
re-enacted

(2) Clause *b* of subsection 10 of the said section 42 is repealed and the following substituted therefor:

- (*b*) to an instrument made by persons as joint tenants, trustees or under power of appointment or who hold the land as partnership property if they are so described in a registered conveyance of the land to them or in the instrument.

s. 43a,  
enacted

**17.** The said Act is further amended by adding thereto the following section:

Proof of  
compliance  
with  
R.S.O. 1970,  
c. 349, s. 29

43a. An instrument to which section 29 of *The Planning Act* applies shall not be registered unless,

- (*a*) a consent under section 29 of *The Planning Act* in respect of the instrument is registered;  
or  
(*b*) an affidavit stating that such a consent is not required, and giving reasons therefor, made by one of the granting parties or by his solicitor, is attached thereto.

s. 44,  
amended

**18.** Section 44 of the said Act is amended by adding thereto the following subsections:

Trustees of  
pension funds

- (3) Notwithstanding subsection 2, where a mortgage is made or assigned to the trustee or trustees of a registered pension fund or plan within the meaning of subsection 1 of section 248 of the *Income Tax Act* (Canada) and the mortgage or assignment has attached thereto an affidavit made by one of the trustees or a solicitor deposing that the fund or plan is so registered, the mortgagee or assignee may be described in the mortgage or assignment as the trustee or trustees, naming the fund or plan, and the individual names of the trustee or trustees are not required.

1970-71,  
c. 63 (Can.)

Debentures,  
etc.

- (4) A mortgage in the form of a debenture or a similar instrument shall not be registered unless the name of the person entitled to receive the money payable thereunder and to give a discharge thereof is set out in the instrument.

**19.**—(1) Clauses *b* and *c* of subsection 1 of section 46 of the said Act are repealed and the following substituted therefor: s. 46 (1) (b), re-enacted  
s. 46 (1) (c), repealed

- (b) except where the instrument is a plan of subdivision or other registered plan, shall cause it to be recorded on photographic film and in the proper index or indexes.

(2) Subsections 3 and 4 of the said section 46 are repealed and the following substituted therefor: s. 46 (3, 4), re-enacted

- (3) Every registered instrument is the property of the Crown and, subject to subsection 2 of section 17 and the regulations, shall be retained in the custody of the registrar in his office. Custody of registered instruments

- (4) Notwithstanding subsection 3, a registered instrument may be temporarily transferred to the custody of the director of titles or a land registrar in connection with an application under *The Certification of Titles Act* or *The Land Titles Act*. Idem  
R.S.O. 1970, c. 59, 234

**20.**—(1) Subclause ii of clause *a* of subsection 1 of section 50 of the said Act is repealed and the following substituted therefor: s. 50 (1) (a) (ii), re-enacted

- (ii) an affidavit stating that the testator died on or about a specified date, sworn by any person who has personal knowledge of that fact, or a death certificate under *The Vital Statistics Act* in respect of the death of the testator. R.S.O. 1970, c. 483

(2) Subsections 5, 6, 7 and 8 of the said section 50 are repealed and the following substituted therefor: s. 50 (5-7), re-enacted  
s. 50 (8), repealed

- (5) The Minister of Revenue may issue a certificate that all succession duties payable in respect of any land forming part of the estate of a deceased person have been paid and satisfied or that security for such payment as required under *The Succession Duty Act* has been given, and upon registration of the certificate, it is not necessary that subsection 4 be complied with in respect of the land described in the certificate if the date of registration and registration number of the certificate are indicated in the body or margin of the instrument tendered for registration. Certificate under  
R.S.O. 1970, c. 449

- (6) Where, at the time of registration of a certificate under subsection 5, a notarial copy thereof is produced to the registrar, he shall endorse his certificate of registration upon and return the copy. Notarial copy of certificate

Consent, etc.,  
required  
only once

- (7) Notwithstanding anything in this section, a consent under subsection 4 or a certificate under subsection 5 is required only once in connection with the same property in the same estate.

s. 51 (1),  
amended

**21.**—(1) Subsection 1 of section 51 of the said Act is amended by striking out "general" in the fourth line.

s. 51 (2),  
re-enacted

(2) Subsection 2 of the said section 51 is repealed and the following substituted therefor:

Idem

- (2) Subsection 1 applies only,

(a) where the death of the deceased person occurred after the 31st day of December, 1958 and before the 1st day of January, 1972; and

(b) where the instrument referred to in subsection 4 of section 50 was tendered for registration on or after the 1st day of January, 1970.

s. 54 (2-4),  
re-enacted

**22.** Subsections 2, 3 and 4 of section 54 of the said Act are repealed and the following substituted therefor:

Duplicate  
mortgage,  
etc., must be  
produced

- (2) Subject to subsections 2a, 2b and 3, where a certificate of discharge is tendered for registration, the registered duplicate mortgage and the registered duplicate of any assignment thereof shall be produced to the registrar.

Where  
duplicate  
not required

- (2a) Where one or more mortgages in addition to the mortgage being discharged were included in one assignment, it is not necessary to produce the registered duplicate assignment until the last of such mortgages is discharged.

Idem

- (2b) Where the certificate does not completely discharge the mortgage, subsection 2 does not apply.

Where  
duplicate  
cannot be  
produced

- (3) Where a duplicate mortgage or a duplicate assignment cannot be produced, a declaration by a person having knowledge of the facts, giving the reasons therefor, may be produced in lieu of the duplicate.

Cancellation  
and return  
of duplicate

- (4) The registrar shall, with a stamp bearing the words "Discharge Registered", stamp each duplicate produced to him under subsection 2 across the certificate of registration, and shall return the duplicate to the person who produced it.



**23.** Subsection 1 of section 56 of the said Act is amended by striking out "1970" in the fourth line and inserting in lieu thereof "1971". s. 56 (1), amended

**24.** Sections 60 and 61 of the said Act are repealed and the following substituted therefor: ss. 60, 61, re-enacted

60. Where only part of the land mortgaged by a registered mortgage is to be discharged therefrom, a certificate of discharge, in the prescribed form, that includes a local description of the land, executed by the mortgagee, his executor, administrator or assignee, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, may be registered. Partial discharge of mortgage

61. A certificate of discharge that conforms to this Act and the regulations is, when registered, as valid and effectual as a conveyance to the mortgagor, his heirs or assigns of his original estate in the mortgaged land or in the part thereof described in the certificate, as the case may be. Effect of registration of discharge of mortgage

**25.** Subsection 6 of section 63 of the said Act is amended by striking out "and the certificate shall be registered in the registry office in the same manner and for the same fee as a discharge of mortgage" in the eighth, ninth and tenth lines, so that the subsection shall read as follows: s. 63 (6), amended

(6) Where a mortgage has been seized by a sheriff or bailiff of the small claims court or other officer in the manner provided by law, and the seizure has been withdrawn, vacated or for any other reason set aside, the sheriff, bailiff or other officer under whose hand notice of seizure has issued, may give a certificate directed to the registrar in whose office the notice of seizure is registered, to the effect that the seizure has been withdrawn, vacated or set aside, as the case may be. Notice of seizure of mortgage

**26.** Sections 65 and 66 of the said Act are repealed and the following substituted therefor: s. 65, re-enacted  
s. 66, repealed

65.—(1) Where an instrument purporting to be a valid discharge of a mortgage or an instrument under section 26 has been registered for ten or more years, the land described in the mortgage or instrument, or that portion of the land described in the discharging instrument, as the case may be, is not affected by any claim under the mortgage or instrument or under any instrument relating exclusively thereto. Effect when discharge of mortgage registered for ten years



Effect when  
discharge of  
certain other  
instruments  
registered  
for two  
years

- (2) Where an instrument purporting to be a valid discharge of,
- (a) a certificate of *lis pendens*;
  - (b) a claim for a mechanics' lien;
  - (c) a certificate of action in respect of a mechanics' lien;
  - (d) a registered notice of a conditional sale contract;
  - (e) a registered gas or oil lease,

has been registered for two or more years, the land described in the certificate, claim, notice or lease, or that portion of the land described in the discharging instrument, as the case may be, is not affected by any claim under the certificate, claim, notice or lease or under any instrument relating exclusively thereto.

Deleting  
entries

- (3) The registrar may delete the entry in the abstract index,
- (a) of any instrument to which this section applies;
  - (b) of a notice of the granting of a pension registered under section 13 of *The Old Age Pensions Act*, being chapter 258 of the Revised Statutes of Ontario, 1950, or any predecessor of that section.

Idem

- (4) Notwithstanding subsection 3, the registrar shall not delete the entry of an instrument in the abstract index for a lot or part of a lot unless all the lot or part is free of claims under the instrument by virtue of the operation of subsection 1 or 2.

s. 73 (2),  
amended

**27.**—(1) Subsection 2 of section 73 of the said Act is amended by adding "or" at the end of clause *b*, by striking out "or" at the end of clause *c* and by striking out clause *d*.

s. 73 (4),  
re-enacted

(2) Subsection 4 of the said section 73 is repealed and the following substituted therefor:

Registration  
deemed  
notice

- (4) The registration of a notice under subsection 7 or 8 of section 22 or under section 113 or a declaration under subsection 2 of section 23 constitutes registration of the instrument referred to in the notice or declaration for the purposes of subsection 1 of this section.

**28.** Section 75 of the said Act is repealed.

s. 75,  
repealed

**29.** Subsections 1 and 2 of section 76 of the said Act are repealed and the following substituted therefor:

s. 76 (1, 2),  
re-enacted

(1) Except in the manner hereinafter provided, after an instrument has been recorded, no alteration or correction shall be made to any entry previously made respecting the instrument.

Corrections

(2) The registrar shall immediately after becoming aware of any omission or error in recording cause to be made in red ink such entries, alterations or corrections as are requisite, and a memorandum stating the date of every such entry, alteration or correction, and the memorandum shall be signed by the registrar or his deputy.

Method

**30.** Section 78 of the said Act is amended by adding thereto the following subsection:

s. 78,  
amended

(11) A plan of subdivision of land that is within an area to which *The Land Titles Act* applies shall not be registered under this Act, subject to subsection 2 of section 160a of *The Land Titles Act*.

Where plans  
required to  
be registered  
under  
R.S.O. 1970,  
c. 234

**31.** The said Act is further amended by adding thereto the following section:

s. 78a,  
enacted

78a.—(1) Subject to section 79, a deed or other conveyance or mortgage of land shall not be registered unless,

Where  
reference plan  
required

(a) the land is the whole part remaining to the owner of the land described in a registered conveyance to him;

(b) the land consists of the whole of a lot, block, street, lane, reserve or common according to a registered plan of subdivision, judge's plan or municipal plan under section 89;

(c) the land is the whole of a "PART" according to a previously recorded reference plan; or

(d) the land is shown on a plan of survey, to be known as a "reference plan", prepared and deposited in accordance with the regulations.

(2) The registrar, having regard to the circumstances, may order that subsection 1 does not apply in the case of a conveyance or mortgage mentioned in the order.

Exception

s. 79,  
re-enacted

**32.** Section 79 of the said Act is repealed and the following substituted therefor:

Where  
registrar  
may require  
reference  
plan

79.—(1) Where an instrument submitted for registration contains a description of land that in the opinion of the registrar is complex or vague, he may require a plan of survey of the land to be deposited as a “reference plan” before accepting the instrument for registration.

Saving

(2) Where the registrar is satisfied that compliance with a requirement made under subsection 1 would be unreasonable, having regard to the circumstances, he may accept, in lieu of a reference plan, a sketch of the land drawn to scale and including the distance from the land described in the instrument to one or more lot angles, attached to the instrument.

s. 86 (2),  
repealed

**33.**—(1) Subsection 2 of section 86 of the said Act is repealed.

s. 86 (4),  
re-enacted

(2) Subsection 4 of the said section 86 is repealed and the following substituted therefor:

Consent  
to order  
R.S.O. 1970,  
c. 349

(4) An order under this section amending a plan that was approved under section 33 of *The Planning Act* or a predecessor thereof, where the plan was registered after the 27th day of March, 1946, shall not be made without the prior written consent of the Minister under that Act.

s. 87,  
amended

**34.** Section 87 of the said Act is amended by inserting after “subdivision” in the fourth line, “judge’s plan or municipal plan under section 89 or deposited reference plan”.

s. 91 (4) (a),  
re-enacted

**35.** Clause *a* of subsection 4 of section 91 of the said Act is repealed and the following substituted therefor:

(a) may require a consent within the meaning of subsection 1 of section 29 of *The Planning Act* to be attached to or endorsed on the instrument; or

. . . . .

s. 97 (g, i),  
repealed

**36.**—(1) Clauses *g* and *i* of section 97 of the said Act are repealed.

s. 97,  
amended

(2) The said section 97 is amended by adding thereto the following subsection:

Annual  
report of  
Director

(2) The Director shall make a report annually to the Minister on the administration of this Act and the Minister shall submit the report to the Lieutenant



Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

**37.** Section 101 of the said Act is repealed and the following substituted therefor: s. 101,  
re-enacted

101. Any person, except the registrar or other officer when entitled by law so to do, who alters any book, record, plan, registered instrument or deposited document in any registry office, or who makes any memorandum, word or figure in writing thereon, whether in pencil or in ink, or by any other means, or in any way adds to or takes from the contents of any such book, record, plan, instrument or document, and any person who removes or attempts to remove any such book, record, plan, instrument or document from a registry office without lawful authority, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. Offence for  
unauthorized  
alteration  
or removal  
of records

**38.** Section 103 of the said Act is repealed and the following substituted therefor: s. 103,  
re-enacted

103. Notwithstanding any provision of this Act or of *The Land Titles Act*, the Lieutenant Governor in Council may make regulations for standardizing the procedures in the land titles system and the registry system and for integrating the records of those systems in land registry offices where both systems are operated, and may limit the application of any provision of the regulations to one or more registry or land titles divisions. Integration  
of land  
titles and  
registry  
records and  
procedures  
R.S.O. 1970,  
c. 234

**39.** Subsections 3 and 4 of section 107 of the said Act are repealed and the following substituted therefor: s. 107 (3),  
re-enacted  
s. 107 (4),  
repealed

(3) The registrar shall enter in the abstract index against each lot or parcel mentioned in the requisition the words, "See Deposit No. . . . .", and, where the requisition refers to only a part of a lot, the entry in the abstract index shall include a reference to the part of the lot. Entry in  
abstract

**40.** Clause *b* of subsection 3 of section 112 of the said Act is repealed and the following substituted therefor: s. 112 (3) (b),  
re-enacted

(*b*) an instrument to which section 65 applies shall be deemed not to have been registered.

Validity  
of prior  
registrations  
not affected

**41.** No provision of this Act affects the validity of the registration of any instrument that was registered before such provision came into force.

Commence-  
ment

**42.**—(1) This Act, except sections 12, 17, 21, 30 and 31, comes into force on the day it receives Royal Assent.

Idem

(2) Section 21 shall be deemed to have come into force on the 1st day of January, 1972.

Idem

(3) Sections 30 and 31 come into force on the 1st day of April, 1973.

Idem

(4) Sections 12 and 17 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

**43.** This Act may be cited as *The Registry Amendment Act, 1972*.